86-821

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1986

MONTE LEE,

Petitioner,

vs.

PRESIDENT RONALD REAGAN,
ATTORNEY GENERAL WILLIAM FRENCH-SMITH,
SOLICITOR GENERAL REX E. LEE,
CHIEF JUSTICE WARREN E. BURGER, et al.,

Respondents.

PETITION TO THE UNITED STATES SUPREME COURT FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MONTE LEE
6520 B. Selma Avenue
Hollywood, CA 90028
(213) 465-6575

Petitioner Pro Se

QUESTION PRESENTED

IS NOT DISMISSAL BY THE UNITED STATES NINTH CIRCUIT COURT OF APPEALS OF SUCH A GRAVE CHARGE AS ATTORNEY/JUDGE ALLIANCES KNOWINGLY AND INTENTIONALLY AIDING AND ABETTING CORPORATE CRIME TANTAMOUNT TO A BLUNT ADMISSION THAT UNITED STATES SUPREME COURT AND THE PRESIDENT ARE WILLING AND SEEKING TO USE THE DOCTRINE OF ABSOLUTE JUDICIAL IMMUNITY TO FURTHER CRIME AND CORRUPTION IN THE PEOPLE'S COURT SYSTEM?

PARTIES TO THE ACTION

Parties to the action are, PETITIONER, MONTE LEE, and Respondents, PRESIDENT RONALD REAGAN, ATTY. GEN. WILLIAM FRENCH SMITH, SOLICITOR GEN. REX E. LEE, CHIEF JUSTICE WARREN E BURGER, et al. (entire U.S. SUPREME COURT).

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CHIEF JUSTICE WARREN E. BURGER, et al.,

Respondents.

PETITION FOR WRIT OF CERTIORARI

Monte Lee, petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

JURISDICTION

A timely petition for rehearing with suggestion for Rehearing en banc was denied on August 4, 1986. The jurisdiction of this court is invoked under 28 U.S.C. §1254, n.7.

CONSTITUTION, FEDERAL AND STATE STATUTES

The relevant portions of the Constitution and federal and state statutes are adequately set forth in the Petition.

STATEMENT OF CASE

On October 27, 1982, plaintiff filed a lawsuit in the United States District Court, Central District of California, CV 82-5549 TJH (Bx), to secure damages against the following defendants: Justices Warren Burger, Harry Blackmun, William Brennan, Thurgood Marshall, Lewis Powell, John Stevens, Potter Stewart, William Rehnquist, and Byron White. Plaintiff alleged that they possessed absolute knowledge that their self-made unqualified doctrine of absolute judicial immunity aided, abetted, licensed, protected, and served to cover up the illegal judge/attorney combinations which participated in fixed litigation, fraud, illegal use of judicial administrative adjudicative proceedings to restrain interstate trade and commerce, and eliminate competition for a dummy corporation that was a year away from having produced a

motion picture when it sued plaintiff for unfair competition and was formed to conceal proceeds, justify wrong, protect fraud and defend crime, and who nobody wanted to claim in plaintiff's antitrust suit.

The action was instituted by plaintiff pursuant to Section 4 of the Clayton Act (15 U.S.C. 15) alleging violations of the Sherman Act (15 U.S.C. 1, 2) to secure damages against justices for their violations of Sections 1 and 2 of the Sherman Act (15 U.S.C. 1, 2).

Violation of Hobbs Act (18 U.S.C. 1951), the statutory language sweeps within it all persons who have in any way or degree affected commerce.

Violation of Section 4 of the Act of Congress of March 1, 1875 entitled "Act to Protect all citizens in their civil and legal rights."

Violations of clearly established statutory and Constitutional rules.

Clear absence of all jurisdiction.

The action was taken against them individually and in their individual capacity alleging that they knowingly and intentionally allowed their doctrine of absolute judicial immunity to aid, abet, license and protect corporate crime in plaintiff's case in the People's courtroom.

That they are not paid by the People to protect crime. In so doing, they shed their robes and stripped themselves of all lawful authority and jurisdiction. That the Justices placed themselves into the hands of the people to decide by being held answerable to trial by jury.

Approximately 77 days from the time the Justices were served on February 14, 1983, a Rule 55(a) default was entered against the Justices for failure to plead or otherwise

defend in said action, as directed in the Summons and as provided in the Federal Rules of Civil Procedure. Appendix A.

President Ronald Reagan's Justice Department thwarted the individual service of Summons upon the individual Justices of the U.S. Supreme Court.

March 10, 1983 Jan L. Luymes, Assistant United States Attorney, under penalty of perjury declared:

> "I have been informed by the Legal Office of the United States Supreme Court that Mr. C. Williams has not been authorized to accept service of process on behalf of the individual Justices of the Supreme Court. I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief."

On April 5, 1983 the United States District Court's (Central District of California) Order was entered. The Order stated

> "In denying the plaintiff's Petition for Certiorari, the defendants (Justices) were performing a judicial act and as such, are absolutely immune from suit, citing STUMP VS. SPARKMAN, 435 U.S. 349 (1978)." Appendix B.

United States Court of Appeals for the Ninth Circuit Order by KENNEDY and POOLE, Circuit Judges (dated September 7, 1983) Appellee's Motion for Summary Affirmance is granted. Appendix C.

Filed October 31, 1983, Order by: KENNEDY and POOLE, Circuit Judges, Appellant's Motion for Rehearing and Suggestion for Rehearing en banc are denied. Appendix D.

On February 1, 1984, Solicitor General Rex E. Lee used his office as an adjunct to

the Supreme Court and not as an advocate of the People.

He turned over the People's Government to a Government by judiciary with the following words: "The Government hereby waives its rights to file a response to the petition in this case unless requested to do so by the Court. Appendix E.

On February 27, 1984, the Justices of the U.S. Supreme Court chose to slam their door shut with the words "certiorari denied" on the lawsuit that plaintiff brought them (entitled MONTE LEE VS. WARREN E. BURGER CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, et al., Case No. 83-1208) alleging that their self-made, self-protected, unqualified doctrine of absolute judicial immunity was the direct and proximate cause of injury to plaintiff in LEE VS. LAW OFFICE OF ALIOTO, et al., 633 F.2d 222 (9th Cir. 1980) certiorari denied, 101 S.Ct. 1486 (1981),

petition for rehearing denied, 101 S.Ct. 2009 (1981). Appendix F.

On May 30, 1985, appellant Monte Lee filed a complaint in the United States District Court, Central District of California, D.C. No. CV 85-3064 WJR, naming as defendants President Ronald Reagan, Attorney-General William French Smith, Solicitor-General Rex E. Lee, and the entire Supreme Court.

The complaint was filed and proceedings were instituted against the defendants in their individual and in their official capacity for damages, resulting from their individual functions above the law and outside the Constitution, contrary to what they are paid for by the ultimate sovereign, the People, in violation of 42 U.S.C. §1985 and 42 U.S.C. §1986, and 42 U.S.C.A. §1983, and:

1. Violation of United States Constitution, Article II, Section 1, Clause 8,

President violated oath to preserve, protect, and defend the Constitution of the United States,

2. Violation of United States Constitution, Article VI, Clause 3, United States Attorney General, and Solicitor Attorney General violated oath to uphold the Constitution that requires every official of the Federal and State Governments to swear that he will uphold the Constitution,

3. Violation of United States Constitution, Article III, Section 1, the judges, both of the Supreme and inferior Courts, shall hold their offices during good behavior,

4. Violation of United States Constitution, Article I, Section 1, "People gave authority to the Congress alone to make laws for the Nation,"

5. Violation of First Amendment of Constitution, plaintiff's freedom to go to Government and ask that abuses be corrected.

6. Violations of the due process and equal protection clauses of the Fifth and Fourteenth Amendments (the Fifth forbidding the Federal Government and the Fourteenth forbidding the State Governments to deprive any person of his right to "life, liberty, or property without due process of law"),

7, Violation of the equal protection clause of the Fourteenth Amendment (forbidding a state to "deny to any person within its jurisdiction the equal protection of the laws"),

8. Violation of Section 1, Amendment X of the Constitution of the United States, "Powers not delegated...are reserved...to the people." Clear cut order to the Federal Government not to assume powers that have not been assigned to it,

9. Violation of separation of powers,

10. Violation of Hobbs Act, 18 U.S.C. 1951, the statutory language sweeps within

it all persons who have in any way or degree ...affected commerce.

11. Violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1, 2),

12. Clear absence of jurisdiction.

The suit alleged that all the defendants joined to self-protect the doctrine of absolute immunity that they all enjoy. This they did possessing absolute knowledge that the doctrine served to protect extortion, destroy truth, legitimize falsehood, cover up illegal judge-attorney combinations which participated in fixed litigation, fraud, illegal use of judicial administrative adjudicative proceedings to eliminate competition for a dummy Switzerland Corporation, Gallen Films, S.A., formed by Metro-Goldwyn-Mayer and Cinerama to conceal proceeds, justify wrong, protect fraud and defend crime.

Plaintiff alleged President Ronald Reagan, Attorney-General William French Smith, Solicitor-General Rex E. Lee, all had been informed by certified letters, in effect, to take care, had the power to prevent or aid in preventing the denial of certiorari, but refused to do so; instead, they chose to protect the Justices and the doctrine of absolute judicial immunity.

In the U.S. District Court Central District of California Judge William J. Rea handed down in case No. 85-3604 WJR the following:

> TENTATIVE RULING...Defendant's Motion to Dismiss is GRANTED, with prejudice. Plaintiff was given the opportunity to amend to replead in a proper fashion his causes of action, and has not done so.

Appendix G

Plaintiff Notice of Appeal was filed August 15, 1985, No. 85-6205 IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT. Appendix H.

In a NOT FOR PUBLICATION MEMORANDUM FILED MAY 5, 1986, the NINTH CIRCUIT COURT OF APPEALS AFFIRMED the dismissal of appellants complaint. Appendix I

In a NOT FOR PUBLICATION ORDER FILED AUGUST 4, 1986, the NINTH CIRCUIT handed down the following: The petition for rehearing is denied and the suggestion for a rehearing en banc is rejected. Appendix J.

Judgment is affirmed - Lodged August 19, 1986. Entered August 25, 1986. Appendix K.

ARGUMENT

When the District Court entered its ORDER dismissing plaintiff's case with

prejudice for unintelligibility in violation of Rule 8, Federal Rules of Civil Procedure the District court and the Ninth Circuit affirming the ORDER ignored the following:

CV 85-3604-WJR

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Monday, August 5, 1985

THE COURT: Mr. Lee, the Court, as you know, earlier dismissed the action without prejudice, and you instead of filing an amended complaint filed a new complaint which was low-numbered, as they call it, to this Court because I had your first case, so that case went to Judge Pfaelzer, but under our system, because I had the case before, it came to me. We will treat it as an amendment to your original complaint, namely you filed a new complaint.

There is nothing actually new or different in that complaint that was found in the original complaint, and this Court is not going to take any action on the failure of the United States Supreme Court to grant certiorari in a case that you felt they should have granted it.

I know you do not accept it, but whether you like it or not, that is something beyond my powers. I cannot tell the Supreme court they erred in not granting certiorari on your case. That is not within my power or my prerogative, and besides that, if your allegations, which I have tried to assimilate and understand, you are alleging these people all performed these acts in their official capacities. I do not know in what conceivable manner you would be able to obtain personal jurisdiction over them. That is just another little problem, and I could go on.

But those are two of the basic ones.

MR. LEE: Let's get over that problem with this, if I may. In denying plaintiff's petition for certiorari, the defendants, the justice of the United States Supreme Court did not perform a judicial act, and they did not act in their official capacity, and they are not immune from suit.

The disputed fact is that the justices sat in this both as judges and jury to protect the very instrument that served, aid and abet and protect crime and corruption within the people's courtrooms, their invented doctrine of absolute judicial immunity. That crime was clearly laid out in petitions before them. To protect their absolute judicial immunity, they violated clearly established constitutional rights of which a reasonable person would have known. Harlow, 457 U.S. at 818.

Their violation of oath is made clear by the United States Supreme Court in Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964). Chief Justice Warren Burger delivered the opinion of the court. Denial of constitutionally protected rights demand judicial protection. Our oath and our office requires no less.

It is also made clear in Bevams. (sic) In Bevams (sic) v. Six Unknown Federal Narcotics Agents, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971), the Supreme Court held that individuals who have suffered a compensable injury through violation of their rights guaranteed them by the Fourth Amendment may invoke the general federal question jurisdiction in federal courts in suits for damages. That conclusion the Supreme Court stated rested on two principles. First, the very essence

of civil liberty certainly consists in the right of every individual to claim protection of the laws. 403 U.S. at 397, 91 S.Ct. at 2005. Quoting Marbury v. Madison, 1 Cranch 137, 163 L.Ed.2d 60 (1803).

Second, historically damages have been regarded as the ordinary remedy for the invasion of personal interest in liberty. 403 U.S. 395, 91 S.Ct. 2004.

In Butz v. Economo, 438 U.S. 478, 98 S.Ct. 289, 457 L.Ed.2d 895 (1978), the Supreme court stated that they rejected the argument of the federal government that federal officers, including Cabinet officers, are absolutely immune from civil liability for such constitutional violations.

The position of the Supreme Court recognized that it would substantially undercut their conclusion in Bevams. (sic)

Finally, in Davis v. Pastnotes, the Supreme court held that a congressman could be held liable for damages in a Bevams type (sic) suit brought in federal court alleging a violation of individual rights guaranteed the plaintiff by the due process clause.

Here you have President Ronald Reagan who publicly denounced the Supreme Court as justices who put themselves above the law.

You have Howard H. Baker, Jr., a Republican in Tennessee, who says that the Supreme Court has fallen to a low aspect and must be reconstructed.

Senator Sam Ervin: "The tragic truth is that in recent years the Supreme court has repeatedly usurped and exercised the power of Congress and the states."

The United States Attorney states that plaintiff's conclusion that the President

of the United States as chief legislator is erroneous. Well, the chief legislator may be a somewhat misleading title, but the President plays a very important legislative role nonetheless.

This role is derived from Section 3 of Article 2: "He shall from time to time give to Congress information of the state of the union and recommend to their consideration such measures as he shall judge necessary and expedient. He may on extraordinary occasions convene both houses." Congress has often proved incapable of leading itself so that the only alternative to a legislative drift, indecision and inaction is for Congress to find a source of leadership outside itself in the President.

It should be noted here that the President's effectiveness as a chief legislator depends a great deal on his

effectiveness in fulfilling other roles. For example, his success as a national leader or chief of his party as well as in other roles in part determines his ability to influence the shape of public policy.

Indeed, President Johnson played such an active role in leading the 89th Congress in 1965 and 1966, that the critics in the handling of Congress referred to it later as a rubber stamp.

The threats of a veto actually facilitate the legislative process, illustrating the President's role as the chief legislator.

Plaintiff contends that this Court has the duty to defend the integrity of the Supreme Court in administration. This is serious charges. The only way to do that is not by methods used by the United States Attorney and insult the plaintiff,

but simply to prove that what the plaintiff says is wrong, that it is a judicial and official act to protect crime committed in the people's courtrooms.

Now certainly it is not a judicial act to protect a crime nor is it an official act. And if I were sitting on the bench in this court, well, I certainly would not let somebody stand here in front of me and accuse my President and my Supreme Court of a crime.

This won't die. The only way for it -- the only thing I feel is just here is for the Court to prove that I'm wrong and that everything that I say is wrong.

MALPRACTICE ACTION

In the Superior Court of Los Angeles County, plaintiff appeared before Judge Shirley M. Hustedler in a malpractice action brought against his attorneys, Edward Mosk and Norman Rudman, Civil No. 837449, where plaintiff filed two amended complaints. Plaintiff's second amended complaint set forth four causes of action: (1) Defendants refused to file an answer; (2) Misrepresentation; (3) Conflict of interest; (4) Joined forces with opposing attorneys.

Defendants filed a demurrer to Plaintiff's second amended complaint and their demurrer was sustained by Judge Hufstedler without leave to amend whereupon plaintiff appealed to the Second Appellate District Court, State of California.

Judge Shirley M. Hufstedler, during 1960-1961, served as special legal consultant

to the then Attorney General of California, Stanley Mosk, brother of Edward Mosk, which plaintiff was not aware of. Judge Hufstedler should have disqualified herself.

March 15, 1966, 2nd Civil No. 29142, P. J. Wood, Presiding Justice and Associate Justices, J. Fourt and J. Lillie of the District Court of Appeal, Second Appellate District, Division One, handed down the following false statement with the obvious intent to cover up acts of plaintiff's attorneys Mosk and Rudman, and Judge Shirley Hufstedler.

They state in their opinion that,

> "In substance, Lee's claims for damages are made with reference to litigation in which the herein defendants (referred to as Mosk and Rudman) acted as Lee's counsel. In that litigation Metro-Goldwyn-Mayer, Inc. which

had produced a motion picture entitled, 'The Wonderful World of the Brothers Grimm' (and had been advertising said title prior to release of the picture), obtained an injunction restraining Lee from using words similar to that title in advertisng a motion picture which Lee intended to release. (See Metro-Goldwyn-Mayer, Inc. v. Lee, 212 Cal.App.2d 23 [27 Cal.Rptr. 833].)"

They stated that Metro-Goldwyn-Mayer had produced a motion picture and had been advertising said title prior to release of the picture.

Metro-Goldwyn-Mayer had not produced the motion picture. They were approximately one year away from having a motion picture and they had no motion picture to advertise.

April, 1966, appellant's Petition for Rehearing was denied by the Appellate Court.

Appellant filed a Petition for Hearing in the California Supreme Court where a Justice was Stanley Mosk, brother of Edward Mosk and former benefactor of Judge Shirley M. Hufstedler when she served as his special legal consultant when he was Attorney General of California. The hearing was denied.

ANTITRUST ACTION

Judge David Williams in the United States District Court for the Central District of California (in MONTE LEE. PLAINTIFF V. EDWARD MOSK, NORMAN RUDMAN, dba MOSK and RUDMAN ATTORNEYS AT LAW, and METRO-GOLDWYN-MAYER, INC., a corporation; CINERAMA, INC., a CORPORATION, and GALLEN FILMS, S.A., a CORPORATION DEFENDANTS) in his chambers referred plaintiff to Law OFFICE OF JOSEPH L.

ALIOTO, in presence of lawyers for defendants.

All parties except the plaintiff were fully aware of the close association of Joseph L. Alioto with Wyman, of Wyman, Bautzer, Rothman and Kuchel, attorneys for Metro-Goldwyn-Mayer and the Dummy Switzerland Corporation Gallen Films, formed to conceal proceeds and swindle investors and stockholders, and avoid paying income taxes.

At the time that Edward Mosk agreed to represent plaintiff in the law suit brought against him by Metro-Goldwyn-Mayer, Cinerama, and Gallen Films S.A., alleging unfair competition, his brother, Stanley, was running for Attorney General, and his campaign was being spearheaded by George Killion, who was chairman of the board for Metro-Goldwyn-Mayer. Plaintiff was unaware of this at the time he engaged Edward Mosk as his attorney.

All parties were fully aware of Alioto's close association with California Supreme Court Justice Stanley Mosk. Plaintiff was unaware of this at the time he engaged Alioto Law Firm to represent him.

Alioto dismissed Edward Mosk as a defendant in the courtroom of Judge David Williams.

The case was transferred to the courtroom of Judge Matthew Byrne, Jr.

A judge lacks immunity where he acts in the "clear absence of all jurisdiction," Bradley, 800 U.S. (13 Wall.), or performs an act that is not "judicial" in nature. Stump v. Sparkman, 435 U.S. 349, 360 (1978). The factors relevant in determining whether an act is judicial "relate to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his

judicial capacity." Sparkman, 435 U.S. at 362.

It was not a normal function nor a judicial act for U.S. District Court Judge William M. Byrne, Jr. to participate with conniving attorneys in pursuit of his directed verdict for the Dummy Switzerland Corporation Gallen Films S.A., formed by Metro-Goldwyn-Mayer, with the approval of Cinerama for the ostensible purpose of producing the film "The Wonderful World of Brothers Grimm," and to conceal proceeds, swindle investors, and stockholders, and avoid paying U.S. taxes.

Byrne knew that litigation brought against plaintiff by the Dummy Corporation that was a year away from having a motion picture when it sued plaintiff caused illegal litigation to be used against plaintiff with the purpose in whole or in part, of totally eliminating the competition of the

plaintiff. Plaintiff alleged that the litigation brought against him by defendants, had the intended effect of placing a "cloud" on plaintiff's picture. It also put plaintiff in fear that if plaintiff sold his picture, an exhibitor might violate the injunction and place the plaintiff in further litigation -- the "cloud" was thus the intended and successful unlawful barrier.

Byrne's anxiety for the Dummy Corporation is made clear with is own words as follows:

> "THE COURT: Well, lets assume we are now starting the case tomorrow: You are making your opening statement to the jury. What are your damages going to be?
>
> "What are you going to tell the jury your damages are?
>
> "You have gone through this since 1966 . . . I notice my law

clerk has started File No. 7 on this and now you are going to tell the jury about all these damages. What are you going to tell them that is going to justify this case?

"THE COURT: I have some dandy pictures of hunting in Africa that I have all the rights to, but nobody wants to buy them, and I am sure I can get them all over the world with the same rights." (Reporter's Transcript of Proceedings, Tuesday, February 22, 1972, Civ. No. 66-1804-WMB.)

What Judge Byrne said in effect is that if he can't sell his dandy pictures how does plaintiff expect to sell his.

Judge Byrne never saw plaintiffs motion picture even though the picture was brought in his courtroom and available for him to see.

He possessed absolute knowledge that plaintiffs picture had played in theatres.

All parties (including U.S. District Court Judge David Williams, and U.S. District Court Judge William M. Byrne, Jr.) were fully aware that Alioto Law Firm would drop the Dummy Corporation Gallen Films from being an issue in exchange for the dismissal of Edward Mosk who did not file an answer in behalf of plaintiff, then a defendant in the original suit as a favor to brother, California Supreme Court Justice Stanley Mosk.

THOSE UNITED ARE OBLIGATED TO ONE ANOTHER.

High Court Declines to Hear Alioto Appeal of Legal Malpractice Award.

In a one sentence order, the state Supreme Court refused to hear an appeal by the antitrust firm of Alioto and Alioto to overturn a record $3.2 million malpractice award against the firm.

Only Justice Stanley MOsk voted in favor of hearing the Alioto' petition in C.C. Davis and Co. v. Alioto, 1 Civ. 52485.

CONSTITUTIONAL LAW

"'Judges' Interest in Case Violates Due Process,' 86 Daily Journal D.A.R. 1449 AETNA LIFE INSURANCE CO. Appellant v. MARGARET W. LAVOIE ET AL., AND ROGER J. LAVOIE, SR., No. 84-1601 Supreme Court of the United States Appeal From the Supreme Court of Alabama." In that case JUSTICE BRENNAN, concurring, noted In re Murchison, 349 U.S. 133 (1955) "as this case demonstrates, an interest is sufficiently 'direct' if the outcome of the challenged proceeding substantially advances the judge's opportunity to attain some desired goal even if that goal is not actually attained in that proceeding.

BURGER, C.J., delivered the opinion of the court, in which BRENNAN, WHITE, POWELL, REHNQUIST AND O'CONNOR, J.J., joined. BRENNAN, J., filed a concurring opinion. BLACKMUN, J., filed an opinion concurring in the judgment, in which MARSHALL, J. joined. STEVENS, J., took no part in the consideration, decision or outcome of the case.

In petitioner's case all the respondents have a direct stake in the outcome of this case. Their interest is "direct, personal, substantial (and) pecuniary." Ward, 409 U.S. at 60 (quoting Tumey v. Ohio, 273 U.S. at 523.

Their interest was to thwart assault of their doctrine of judicial immunity that they all enjoy, to avoid malpractice insurance, and avoid being held accountable in direct violation of petitioners Fourteenth Amendment due process rights.

In the fifteen years of Burger's stewardship the Supreme Court has not only explicitly reasserted the absolute immunity of judges from a damage action (in Stump v. Sparkman of 1978, a case where the judge knowingly ordered a young woman sterilized without authority to do so) but has expanded absolute immunity to Presidents (example, Richard Nixon) charged with bad-faith violations of the Constitution; to prosecutors charged with knowingly withholding evidence; to police officers charged with perjury; to naval officers charged with practicing racial discrimination against subordinates, to legislators charged with knowingly abusing their power.

In fact, if a local official violates clearly established State Law and the Constitution, the Burger court grants a good faith immunity from damage suits even if the official knew he or she is violating

State Law.

Stump v. Sparkman, 435 U.S. 349, 360 (1978), the 5-3 decision has been criticized. See Rosenberg, Stump v. Sparkman: The Doctrine of Judicial Impunity, 64 Va. L.Rev. 833, 836 (1978) ("Stump is a possible invitation to judicial lawlessness").

That became a reality in FBI "Operation Greylord," Chicago's "Sting" Operation Targeting Lawyers, Judges and Court Officials, up to ten Cook County judges and more than thirty lawyers for indictment for fixing criminal cases.

The words Certiorari Denied would be a blunt admission that the U.S. Supreme Court and the President are willing and seeking to use the doctrine of absolute judicial immunity to further crime and corruption in the people's court system.

PRESIDENT RONALD REAGAN

In February, 1980, Ronald Reagan denounced the Supreme Court for what he called "an abuse of power as bad as the transgressions of Watergate." Again and again, he said, we had seen the court "override public opinion." Now it was time to stop shielding "justices who put themselves above the law."

The Constitution commands that the President "shall take care that the laws be faithfully executed," and specific congressional statutes direct executive assistance in carrying out court decisions.

CHIEF JUSTICE WARREN E. BURGER

And, as the Chief Justice said in Complete Auto Transit, Inc. v. Reis, 451

U.S. 401, 429 (1981) (dissenting Opinion):

> "Accountability of each individual for individual conduct lies at the core of all law - indeed, of all organized societies. The trend to eliminate or modify sovereign immunity is not an unrelated development; we have moved away from 'the king can do no wrong.' This principle of individual accountability is fundamental if the structure of an organized society is not to be eroded to anarchy and impotence, and it remains essential in civil as well as criminal justice."

Warren E. Burger, Circuit Court of Appeals Judge, to Ohio Judicial Conference on September 4, 1986 -- nine months before being named Chief Justice of the United States:

"A court which is final and unreviewable needs more careful scrutiny than any other. Unreviewable power is the most likely to self-indulge itself and the least likely to engage in dispassionate self-analysis. In a country like ours, no public institution, or the people who operate it, can be above public debate."

CONCLUSION

For the foregoing reasons, this petition for a Writ of Certiorari should be granted.

Respectfully submitted

MONTE LEE

Appellant Pro Se

APPENDIX A

APPENDIX A

FILED
FEB 14 1986
Clerk U.S. District Court
Central District of California
By Deputy

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MONTE LEE

Plaintiff

vs.

CHIEF JUSTICE WARREN E. BURGER, et al

Defendant

CASE NUMBER

CV 82-5549 TJH (Bx)

DEFAULT BY CLERK

F.R.C.P. 55(a)

It appearing from the records in the above-entitled action that summons has been served upon the defendant(s) named below, and it further appearing from the affidavit of counsel for Plaintiff, and other evidence as required by F.R.C.P. 55(a) and Local Rule 7(c)(3) that each of the below defendants have failed to plead or otherwise defend in said action as directed in said Summons and

as provided in the Federal Rules of Civil Procedure;

Now, therefore, on request of counsel, the DEFAULT of each of the following named defendants is hereby entered:

Chief Justice Warren E. Burger, Justice Harry A. Blackmun, Justice William J. Brennan, Jr., Justice Thurgood Marshall, Justice Lewis F. Powell, Justice John Paul Stevens, Justice Potter Stewart, Justice William H. Rehnquist & Justice Byron R. White

EDWARD M. KRITZMAN, CLERK

DATED: 2-14-83

(s)
By Charles Waltz
Deputy Clerk

DEFAULT BY CLERK

CV-37 (9/81)

APPENDIX B

APPENDIX B

Filed APR-4 1983
Clk U.S. Dist. Court
Cen. Dist. of Calif.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MONTE LEE,	) NO. CV
	) 82-5549-
Plaintiff,	) TJH(BX)
	)
vs.	) ORDER
	)
CHIEF JUSTICE WARREN E. BURGER	)ENTERED
JUSTICE HARRY A. BLACKMUN	) APR-5 1983
JUSTICE WILLIAM J. BRENNAN, JR.	)
JUSTICE THURGOOD MARSHALL	)Clk.U.S.
JUSTICE LEWIS F. POWELL	)Dist. Court
JUSTICE JOHN PAUL STEVENS	)Cen. Dist.
JUSTICE POTTER STEWART	)of Calif.
JUSTICE WILLIAM H. REHNQUIST	)
JUSTICE BYRON R. WHITE	)
	)
Defendants.	)
	)

This matter came on for hearing before the Court on March 21, 1983 upon the motion by the plaintiff, Monte Lee, to enter default judgment against the defendants and upon the motion of the defendants to set aside the default entered by the Clerk of the Court and to dismiss the action. The plaintiff appeared in propria persona and the defendants were represented by their counsel, Stephen S. Trott, United States Attorney, Frederick M. Brosio, Jr., Assistant United States Attorney, Chief, Civil Division, by Jan L. Luymes, Assistant United States Attorney.

Having duly considered the papers filed by the parties in connection with the said motions and oral argument, the Court finds:

1. The plaintiff is suing the defendants as Justices of the United States Supreme Court.

2. Justices of the Supreme Court are officers of the United States.

3. To properly serve a smummons [sic] and complaint upon officers of the United States, a plaintiff is required to deliver a copy of the same to the officers and to the United States Attorney (or Assistant United States Attorney or clerical employee) for the district in which the action is brought and to send a copy of the same by registered or certified mail to the Attorney General. Rule 4(d)(4), (5), Fed.R.Civ.P.

4. While the plaintiff attempted to serve the defendants as officers of the United States, the plaintiff never served the United States Attorney or the Attorney General.

5. An officer of the United States is required to answer a complaint

within sixty days after service upon the United States Attorney. Rule 12(a), Fed.R.Civ.P.

6. By not serving the United States Attorney, the time in which the defendants must answer, plead or otherwise defend has not expired, and the defendants have not failed to answer, appear or otherwise defend in this action.

7. A default can be entered by the Clerk when a party has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure. R. 55(a), Fed.R.Civ.P.

8. Because the defendants have not failed to answer, appear or otherwise defend in this action, the default should not have been entered by the Clerk.

The defendants have shown good cause to have set aside the entry of default by the Clerk (filed on February 14, 1983).

9. One judicial act performed by the Supreme Court Justices is to rule on petitions for certiorari.

10. In denying the plaintiff's petition for certiorari, the defendants were performing a judicial act and as such, are absolutely immune from suit.

Stump v. Sparkman, 435 U.S. 349 (1978); Moore v. Burger, 655 F.2d 1265 (D.C. Cir. 1981); Dennis v. Sparks, 449 U.S. 24 (1980); Butz v. Economou, 434 U.S. 799 (1978); Imbler ;v. Pachtman, 424 U.S. 409 (1976); Yaselli v. Goff, 275 U.S. 503 (1927), aff'g.mem. 12 F.2d 396 (1926); Bradley v. Fisher, 13 Wall.

(80 U.S.) 335 (1872).

11. Judicial immunity applies even if a judge is accused of acting maliciously and corruptly. Pierson v. Ray, 386 U.S. 547 (1967). Allegations of conspiracy also do not defeat the defense of immunity. Agnew v. Moody, 330 F.2d 886 (9th Cir. 1964), cert. denied, 379 U.S. 867; O'Bryan v. Chandler, 352 F.2d 987 (10th Cir. 1965), cert. denied, 384 U.S. 926, rehrg. denied, 385 U.S.. 889.

12. When a defendant is absolutely immune from suit, dismissal of the action as to him is proper. Kaufman v. Moss, 420 F.2d 1270 (3rd Cir. 1970); Ward v. Hudnell, 366 F.2d 247 (5th Cir. 1966).

13. A distrct court may dismiss a case if satisfied that the action is frivolous. 28 U.S.C. § 1915(d).

14. The plaintiff's claims are frivolous.

15. The plaintiff has not established his claims or any right to relief.

16. No judgment by default can be entered against an officer of the United States unless the claimant establishes his claim or right to relief by evidence satisfactory to the Court. Rule 55(e), Fed.R.Civ.P.

THEREFORE, IT IS ORDERED:

(1). That plaintiff's motion for entry of default judgment be, and it is hereby denied;

(2). That defendants' motion to set aside the entry of default by the Clerk is granted and that the Default By Clerk against the defendants filed on February 14, 1983 be, and it is hereby set aside pursuant to Rule 55(c), Fed.R.

Civ.P.;

(3). That defendant's motion to dismiss the action is granted pursuant to Rule 12(b)(6), Fed.R.Civ.P., and that the plaintiff's action be, and it is hereby dismissed with prejudice.

DATED: This 4th day of April, 1983.

TERRY J. HATTER, JR.
UNITED STATES DISTRICT JUDGE

PRESENTED BY:

STEPHEN S. TROTT
United States Attorney
FREDERICK, M. BROSIO, JR.
Assistant Unite4d States Attorney
Chief, Civil Division

/s/ JAN L. LUYMES
JAN L. LUYMES
Assistant United States Attorney

Attorneys for Defendants

APPENDIX C

APPENDIX C

FILED
SEP 07 1983
PHILLIP B. WINBERRY
CLERK,U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE,	)
	)
Plaintiff-Appellant,	)No.83-5789
	)
vs.	)DC No. CV
	)82-5549 TJH
CHIEF JUSTICE WARREN E. BURGER, ASSOCIATE JUSTICES WILLIAM J. BRENNAN, JR., BYRON R. WHITE, THURGOOD MARSHALL, HARRY A. BLACKMUN, LEWIS F. POWELL, WILLIAM H. REHNQUIST, JOHN PAUL STEVENS, SANDRA DAY O'CONNOR,	) Central) California))))))) ORDER
	)
Defendants-Appellees.	)
	)

Before: KENNEDY and POOLE, Circuit Judges

Appellees' motion for summary affirmance is granted. The district court acted within its discretion in setting aside the entry of default for good cause shown. Fed. R. Civ. P. 55(c). The dismissal of defendants on the ground of judicial immunity

was proper. See O'Connor v. Nevada, 686 F.2d 749, 750 (9th Cir. 1982), cert. denied, 103 S.Ct. 491. Because the issues are insubstantial and the result is compelled by controlling precedent, this appeal is summarily affirmed.

Appellant's motion to correct the caption is denied. Appellees' motion for costs is also denied.

MoCal 8/29.83

APPENDIX D

APPENDIX D

FILED
OCT 31 1983
PHILLIP B. WINBERRY
Clerk,U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE, Plaintiff-Appellant, vs. CHIEF JUSTICE WARREN E. BURGER, ASSOCIATE JUSTICES WILLIAM J. BRENNAN, JR., BYRON R. WHITE, THURGOOD MARSHALL, HARRY A. BLACKMUN, LEWIS F. POWELL, WILLIAM H. REHNQUIST, JOHN PAUL STEVENS, SANDRA DAY O'CONNOR, Defendants-Appellees.	)No.83-5789)DC No. CV)82-5549 TJH)Central)California

Before: KENNEDY and POOLE, Circuit Judges

Appellant's motion for rehearing and suggestion for rehearing en banc are denied.

MoCal 8/29/83

APPENDIX E

APPENDIX E

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

MONTE LEE, PETITIONER

vs.

CHIEF JUSTICE WARREN E. BURGER, ET AL

No. 83-1208

WAIVER

The Government hereby waives its right to file a response to the petition in this case, unless requested to do so by the Court.

REX E. LEE
Solicitor General

February 1, 1984

cc: Mr. Monte Lee
6520 B. Selma Avenue
Hollywood, California 90028

(Formerly G-56) FORM OSG-13
DOJ 12-7-76

APPENDIX F

APPENDIX F

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

February 27, 1984

Mr. Monte Lee
6520 B Selma Avenue
Hollywood, CA 90028

Re: Monte Lee,
v. Warren E. Burger, Chief Justice of the Supreme Court of the United States, et al.
No. 83-1208

Dear Mr. Lee:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Very truly yours,

Alexander L. Stevas, Clerk

/s/

APPENDIX G

APPENDIX G

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. CV 85-3604 WJR Date Aug. 5, 1985

Title MONTE LEE V. PRESIDENT REAGAN, ET AL

DOCKET ENTRY

(No. 7)

PRESENT:

Hon. WILLIAM J. REA, JUDGE

Sherrill Cochrane	Sherrill Boutte
Deputy Clerk	Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS;	ATTORNEYS PRESENT FOR DEFENDANTS:

PROCEEDINGS:

TENTATIVE RULING

Defendant's Motion to Dismiss is GRANTED, with prejudice. Plaintiff was given the opportunity to amend to replead in a proper fashion his causes of action, and has not done so.

Initials of ~~Deputy~~ law Clerk KMJ

MINUTES FORM 11
CIVIL--GEN

APPENDIX H

APPENDIX H

Name (Note: If represented
by an attorney, his name,
address & telephone number)
MONTE LEE

Telephone: 213/465-6575
Address
6520 B. Selma Avenue
Hollywood, CA 90028

(ORIGINAL)

FILED
Aug 14 2:38 PM '85
CLERK,U.S.DISTRICT
COURT

By

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MONTE LEE

Plaintiff(s)

vs.

PRESIDENT RONALD REAGAN: ATTORNY GENERAL WILLIAM FRENCH-SMITH; SOLICITOR GENERAL REX E. LEE; CHIEF JUSTICE WARREN E. BURGER, et al.,

Defendant(s)

Case Number

CV 85-3604-WJR(Mcx)

85-6205

NOTICE OF APPEAL

Aug 15 1985

Notice is hereby given that MONTE LEE (Name of Appellant hereby appeals to the United States Court of Appeals for the Ninth Circuit from Defendant's Motion to Dismiss is Granted, with Prejudice (judgment or order)

(filed)
~~entered~~ in this action on 8/5/85
(date judgment or order entered on the docket sheet)

DATED: (8-14-85) /s/
Signature of appellant or appellant's attorney
MONTE LEE

NOTE: Pursuant to Local Rule 17 service of the notice of appeal may be made by the appellant or appellant's attorney or the clerk of the district court. If the clerk is to make service, the notice shall contain the names and addresses of the attorneys' for all the parties to the action or, if not represented by an attorney, the names and addresses of the parties. Each party filing a notice of appeal with this court shall furnish a sufficient number of copies of such notice to enable the clerk to comply with the mailing required by Rule 73 of the

CV (09/83) NOTICE OF APPEAL

APPENDIX I

APPENDIX I

FILED
MAY -5 1986
CATHY A. CATTERSON
CLERK, U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE, Plaintiff-Appellant, v. PRESIDENT RONALD REAGAN, ATTORNEY GENERAL WILLIAM FRENCH SMITH, SOLICITOR GENERAL REX E. LEE, CHIEF JUSTICE WARREN E. BURGER, et al., Defendants-Appellees.	)No. 86-6205)DC No. CV)85-3604 WJR)MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
William J. Rea, District Judge, Presiding
Submitted April 17, 1986**
San Francisco, California

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 21.

** The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a) and Ninth Circuit Rule 3(f).

Before: KENNEDY, BOOCHEVER and WIGGINS, Circuit Judges

On December 21, 1984, appellant Monte Lee filed a complaint in the district court naming as defendants President Ronald Reagan, Attorney General William French Smith, Solicitor General Rex E. Lee, and the entire Supreme Court. This complaint purported to state a cause of action apparently based upon a conspiracy involving the denial of certiorari in appellant's previous action, Lee v. Law Offices of Joseph L. Alioto, 633 F.2d 222 (9th Cir. 1980), cert. denied, 450 U.S. 967 (1981), and the Supreme Court's adoption of the doctrine of absolute judicial immunity. The complaint alleged that these acts violated numerous constitutional provisions and that they also violated the Hobbs Act, 18 U.S.C. § 1951 (1982), and the Sherman Act, 15 U.S.C. §§ 1 & 2 (1982). Among other things, the complaint requested fifty million

dollars in punitive damages.

The district court, in an order entered on March 27, 1985, dismissed the complaint for "unintelligibility" in violation of Fed. R. Civ. P. 8(e), which requires that "[e]ach averment of a pleading shall be simple, concise, and direct." This dismissal was without prejudice to appellant's right to amend his complaint.

Subsequently, on May 30, 1985, appellant filed a new complaint that was virtually identical to his original complaint. The district court treated this complaint as an amended version of the original complaint and dismissed it with prejudice in an order entered August 29, 1985 for not having been repled within the requirements of Rule 8(e). Appellant appeals from the order of August 29, 1985, dismissing his action. Although appellant filed his notice

of appeal fifteen days before entry of the order, under Fed. R. App. P. 4(a)(2), we treat the notice of appeal as timely filed.

A complaint which fails to comply with Rule 8(e) may be dismissed with prejudice pursuant to Rule 41(b). Nevijel v. North Coast Life Insurance Co., 651 F.2d 671, 673 (9th Cir. 1981). A district court's dismissal pursuant to Rule 41(b) will be overturned on appeal only if the district court abused its discretion. Id. at 674. In reviewing the propriety of dismissal under Rule 41(b), we look to see whether the district court first adopted less drastic alternatives, such as allowing amendment of a defective complaint. Id.

We hold that no abuse of discretion occurred here. The district court allowed appellant an opportunity to amend his singularly vague and unintelligible complaint.

Only after his amended complaint proved to be equally vague and unintelligible did the district court order dismissal with prejudice. It is clear from the nature of appellant's allegations that further amendment would do little to clarify his theory for relief. Although we bear in mind that dismissal of a complaint with prejudice effects a drastic foreclosure of rights, we also note that previously before this court appellant had the opportunity to litigate many of the allegations made in the current action. Lee v. Burger, No. 83-5789 (9th Cir. Sept. 7, 1983) (unpublished order granting summary affirmance).

AFFIRMED.

APPENDIX J

APPENDIX J

FILED
AUG 4 1986
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE,	)
	)No. 85-6205
Plaintiff-Appellant,	)
	)DC No. CV
v.	)85-3604 WJR
	)
PRESIDENT RONALD REAGAN, ATTORNEY GENERAL WILLIAM FRENCH SMITH, SOLICITOR GENERAL REX E. LEE, CHIEF JUSTICE WARREN E. BURTER, et al.,	)O R D E R
Defendants-Appellees.	)

Before: KENNEDY, BOOCHEVER and WIGGINS, Circuit Judges

The panel as constituted in the above case has voted unanimously to deny the petition for rehearing and to reject the suggestion for rehearing en banc.

The full court has been advised of the suggestion for en banc hearing and no judge of the court has requested a vote on the suggestion for rehearing en banc. Fed. R. App. P. 35.

The petition for rehearing is denied and the suggestion for a rehearing en banc is rejected.

APPENDIX K

APPENDIX K

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Civil Minutes - Appeals

Case No. (CV 85-3604-WJR) Date (Aug 21, 1986)

Title (Lee -v- President Ronald Reagan, et al

PRESENT: THE HON. (William J. Rea), JUDGE

/s/ Not Legible	(not reported)
Deputy Clerk	Court Reporter

ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANT
1) /s/ Monte Lee	1) /s/ Roger West, Ausa
2) _____	2) _____
3) _____	3) _____

PROCEEDINGS: FILING AND SPREADING MANDATE OF THE NINTH CIRCUIT COURT OF APPEALS

☐ IN COURT (x) IN CHAMBERS ☐ COUNSEL NOTIFIED
(No hearing necessary)

THE COURT ORDERS that the mandate of the Ninth Circuit Court of Appeals:

(x) Affirming [ ] Remanding [ ] Reversing and Remanding

[ ] Affirming in part, reversing in part

[ ] Dismissing Appeal

[ ] The record reflects that costs of the prevailing party were taxed by the Ninth Circuit Court of Appeals in the amount of $_____ on _____

[ ] Other _____

is hereby filed and spread upon the minutes of this U.S. District Court.

(Entered (8-25-86)) [ ] MAKE JS-5

Initial of Deputy Clerk (init.)

Cv -48 (4/86) CIVIL MINUTES - APPEALS

JUDGMENT

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE, Plaintiff/Appellant, vs. PRESIDENT RONALD REAGAN, ATTORNEY GENERAL WILLIAM FRENCH SMITH, SOLICITOR GENERAL REX E. LEE, CHIEF JUSTICE WARREN E. BURGER, et al., Defendants/Appellees.	No. 85-6205 DC CV '85-3604-WJR

ENTERED
AUG 25 1986
CLERK, U.S. DISTRICT COURT
Central District of California
By Deputy

APPEAL from the United States District Court for the Central District of California

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Central District of California and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the _____judgment of the said District Court in this Cause be, and hereby is affirmed.

LODGED
AUG 19 1986
CLERK, U.S. DISTRICT COURT
Central District of California

A TRUE COPY
ATTEST AUG 11 1986
CATHY A. CATTERSON
Clerk of Court
by: /s/ J.L.Crocker
Deputy Clerk

Filed and entered May 5, 1986

FILED
MAY -5 1986
CATHY A. CATTERSON
CLERK, U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE, Plaintiff-Appellant, v. PRESIDENT RONALD REAGAN, ATTORNEY GENERAL WILLIAM FRENCH SMITH, SOLICITOR GENERAL REX E. LEE, CHIEF JUSTICE WARREN E. BURGER, et al., Defendants-Appellees.	)No. 86-6205)DC No. CV)85-3604 WJR)MEMORANDUM*

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for the Central District of California
William J. Rea, District Judge, Presiding
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** The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a) and Ninth Circuit Rule 3(f).

Before: KENNEDY, BOOCHEVER and WIGGINS, Circuit Judges

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Only after his amended complaint proved to be equally vague and unintelligible did the district court order dismissal with prejudice. It is clear from the nature of appellant's allegations that further amendment would do little to clarify his theory for relief. Although we bear in mind that dismissal of a complaint with prejudice effects a drastic foreclosure of rights, we also note that previously before this court appellant had the opportunity to litigate many of the allegations made in the current action. Lee v. Burger, No. 83-5789 (9th Cir. Sept. 7, 1983) (unpublished order granting summary affirmance).

AFFIRMED.